IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

OP.No. 22214 of 1997(T)

PETITIONER:

P.K.INDIRA, U.P.S.A. M.A.M.U.P. SCHOOL,
ADUKKATH, KUTTIADY,
KOZHIKODE DISTRICT.

BY ADV. SMT.SUMATHY DANDAPANI

RESPONDENTS:
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1. **THE MANAGER, M.A.M.U.P. SCHOOL,**
   KUTTIADY, KOZHIKODE DISTRICT.

2. **SRI.RAJENDRAN, HEAD MASTER,**
   M.A.M.U.P. SCHOOL, ADUKKATH, KUTTIADY.

3. **T.KRISHNAN, HEAD MASTER,**
   A.M.L.P. SCHOOL, ADUKKATH, KUTTIADY.

4. **THE DISTRICT EDUCATIONAL OFFICER,**
   VADAKARA.

5. **THE DIRECTOR OF PUBLIC INSTRUC,**
   THIRUVANANTHAPURAM.

6. **STATE OF KERALA, REP.BY SECRETARY**
   TO GOVERNMENT, GENERAL EDUCATION
   (L) DEPARTMENT, GOVERNMENT SECRETARIATE,
   THIRUVANANTHAPURAM.

BY ADV. SRI.P.K.SURESH KUMAR
SRI.TKM.UNNITHAN
SRI.MATHEW UMMEN
SRI.K.P.SUDHEER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.22214/1997

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PROCEEDINGS NO. 1/91-92 DT. 29.6.91 ISSUED BY THE IST RESPONDENT.

EXT.P2:- COPY OF THE REPRESENTATION DT. 28.1.94 ISSUED BY THE PETITIONER TO THE IST RESPONDENT.

EXT.P3:- COPY OF THE REPRESENTATION DT. 9.2.04 SUBMITTED BY THE PETITIONER BEFORE THE A.E.O.

EXT.P4:- COPY OF THE LETTER DT. 25.4.94 SUBMITTED BY THE 2ND RESPONDENT TO AEO.

EXT.P5:- COPY OF THE REPLY GIVEN BY THE MANAGER TO THE 2ND RESPONDENT DT. 25.4.94.

EXT.P6:- COPY OF THE REVISION SUBMITTED BY THE PETITIONER BEFORE THE D.E.O. DT. 9.2.95.

EXT.P7:- COPY OF THE PROCEEDINGS OF THE D.E.O. VIDE ORDER NO.K.DIS B5-1881/95. DT. 6.11.95.

EXT.P8:- COPY OF THE REVISION DT. 11.12.95 SUBMITTED BY THE PETITIONER BEFORE THE D.P.I.

EXT.P9:- COPY OF THE ORDER K.DIS. G3/9901/95 DT. 5.7.96 OF THE D.P.I.

EXT.P10:- COPY OF THE REPRESENTATION DT. 22.7.96 SUBMITTED BY THE PETITIONER BEFORE THE 6TH RESPONDENT.

EXT.P11:- COPY OF THE ORDER G.O.9RT) 1975/97/GE.

EXT.P12:- COPY OF THE SENIORITY LIST ISSUED BY THE MANAGER OF THE ADUKKATH M.L.P.SCHOOL AND M.A.U.P. SCHOOL DT. 25.11.94.

EXT.P13:- COPY OF THE REGISTERED COVER ADDRESSED TO THE MANAGER, MA.M.U.P. AND LM.LP.S., ADUKKATH P.O., KUTTIADY BY THE PETITIONER.

EXT.R3(a):- COPY OF THE PROVISIONAL SENIORITY LIST DT. 24.11.94 AS FINALISED ON 26.12.94.

/TRUE COPY/

P.A. TO JUDGE

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S.SIRI JAGAN,J

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O.P.No.22214 of 1997

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Dated this the 29th day of November, 2007

JUDGMENT

The petitioner's contention in this writ petition is that but for the illegal mutual transfer between one K.C.Kunhikannan and one Sri.Rajendran from the U.P School and L.P.School and vice versa, under the same Educational Agency established in the same compound, the petitioner would have been eligible to be promoted as Headmistress and therefore she challenges Ext.P1 order dated 29.6.91 by which the transfers are made, on the ground that it is violative of Sub Rule 7 of Rule 10 of Chapter XIV A of the Kerala Education Rules. The petitioner also submits that Ext.P5 order whereby the request of Sri.Rajendran expressing desire to relinquish the post of Headmaster was turned down is also invalid. Had the request for relinquishment by Sri.Rajendaran, been allowed the petitioner would have been eligible to be promoted as Headmistress in his place is the other contention raised.

2. The learned Counsel appearing for the first respondent Manger submits that at the time of Ext.P1 transfer

the petitioner was not even qualified to be promoted as Headmistress which is not disputed by the counsel for the petitioner also, since the petitioner qualified for promotion only in 1993. Further there is no prohibition of mutual transfer in Rule 10(7) of Chapter XIV A. What is prohibited is only mutual transfers on request. Therefore the petitioner cannot challenge Ext.P1 on the ground that mutual transfers are not permissible under KER. In any event, since admittedly Ext.P1 was issued at the time when the petitioner was not even qualified Ext.P1 cannot be challenged at this distance of time. As far as Ext.P5 is concerned Sri.Rajendran, although made a party to this writ petition has not come forward to support the petitioner. Further Sri.Rajendran has not chosen challenge Ext.P5. The petitioner cannot challenge Ext.P5 since she has not locus standi to challenge the same. Therefore the petitioner is not entitled to succeed on any of the grounds mentioned in the writ petition. Therefore, the writ petition fails and accordingly the same is dismissed.

S.SIRI JAGAN, JUDGE

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